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8 UNITED STATES DISTRICT COURT  
9 WESTERN DISTRICT OF WASHINGTON  
AT TACOMA

10 ANTOLIN ANDREW MARKS,

11 Plaintiff,

12 v.

13 MARK GILES, *et al.*,

14 Defendants.  
15

Case No. C07-5572RJB/JRC

ORDER ADOPTING REPORT  
AND RECOMMENDATION

16 This matter comes before the Court on the Report and Recommendation of U. S. Magistrate Judge  
17 J. Richard Creatura. Dkt. 71. The Court has considered the Report and Recommendation, objections to  
18 the Report and Recommendation, if any, and the record.

19 Plaintiff filed this 42 U.S.C. 1983/Bivens action on October 17, 2007. Dkt. 1. At the time he filed  
20 suit, Plaintiff was incarcerated at the Northwest Detention Center (“NDC”), but has now been released.  
21 Dkt. 58. Plaintiff asserted claims against employees of GEO, a contractor at the NDC, and federal  
22 employees. Dkt. 1. Defendants Alisha Singleton, Charles McBurney, and George Wigen (employees of  
23 GEO) were dismissed by stipulation on January 9, 2008. Dkt. 12.

24 On September 24, 2008, all Plaintiff’s claims against the remaining Defendants, federal employees  
25 Tom Giles, SDO Ruxhall, and Jack Bennett, were dismissed except his Eighth Amendment claim  
26 challenging the conditions of his confinement. Dkt. 28.

27 Parties then engaged in discovery. *See e. g.* Dkt. 67. On July 22, 2009, the remaining Defendants  
28 filed a Motion for Summary Judgment. Dkt. 60. The Motion for Summary Judgment was noted for  
August 14, 2009. *Id.* Plaintiff did not file a response, and so by order of the Court, Plaintiff was given an

1 extension of time to file a response, and the Motion for Summary Judgment was renoted for September 18,  
2 2009. Dkt. 68. On August 25, 2009, rather than file a response to the Motion for Summary Judgment,  
3 Plaintiff filed a Motion for Reconsideration of Order Denying Motion to Compel. Dkt. 69. His Motion for  
4 Reconsideration was denied. Dkt. 70.

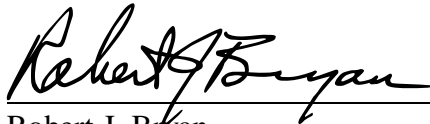
5 On October 5, 2009, the instant Report and Recommendation was filed, recommending that the  
6 Court grant Defendants' Motion for Summary Judgment and dismiss the remaining claim. Dkt. 71.  
7 Although he has been given ample time to do so, Plaintiff has not filed a response.

8 Upon review of the Report and Recommendation (Dkt. 71) the Defendants' Motion for Summary  
9 Judgment should be granted and the remaining claim dismissed with prejudice.

10 Accordingly, it is hereby **ORDERED**:

- 11 • The Report and Recommendation (Dkt. 71) is **ADOPTED**;
- 12 • Defendants' Motion for Summary Judgment (Dkt. 60) is **GRANTED**;
- 13 • The remaining claim is **DISMISSED WITH PREJUDICE**;
- 14 • This case is **CLOSED**; and
- 15 • The Clerk is directed to send copies of this Order to Plaintiff, all counsel of record, and to the Hon.  
16 J. Richard Creatura.

17 DATED this 3<sup>rd</sup> day of November, 2009.

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19 Robert J. Bryan  
20 United States District Judge  
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